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10 UNITED STATES DISTRICT COURT  
11 FOR THE EASTERN DISTRICT OF WASHINGTON  
12

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 RYAN WADE ALEXANDER,

17 Defendant.  
18

No. 4:17-CR-6035-SMJ-1

UNITED STATES' SENTENCING  
MEMORANDUM

Sentencing Hearing:  
July 18, 2019, at 10:30 a.m.  
Richland, Washington

Victim Impact Statements Attached to  
PSR

Court:  
Hon. Salvador Mendoza, Jr.  
United States District Judge

19 Plaintiff United States of America, by and through Joseph A. Harrington, United  
20 States Attorney for the Eastern District of Washington, and David M. Herzog, Assistant  
21 United States Attorney for the Eastern District of Washington, hereby submits the  
22 following Sentencing Memorandum with regard to Defendant Ryan Wade Alexander  
23 ("Defendant").  
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1 Pursuant to the Rule 11(c)(1)(C) plea agreement in this case (ECF No. 39), the  
2 United States recommends the following sentence: twenty-five years in custody, a  
3 lifetime of supervised release, no fine, restitution as requested by Defendant's victims  
4 (up to \$75,000), a mandatory special assessment of \$300 and a \$5,000 special  
5 assessment absent a finding of indigence by the Court.  
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7  
8 The United States' sentencing position is based upon the attached memorandum  
9 of points and authorities, the victim impact statements, the restitution requests made by  
10 victims, the files and records in this case, and such further evidence and argument as the  
11 Court may permit.  
12

13 Dated: June 27, 2019

14 Joseph H. Harrington  
15 United States Attorney

16 s/ David M. Herzog  
17 David M. Herzog  
18 Assistant United States Attorney  
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## MEMORANDUM OF POINTS AND AUTHORITIES

### **I. Introduction**

On April 12, 2018, pursuant to Federal Rule of Criminal Procedure Rule 11(c)(1)(C), Ryan Wade Alexander (“Defendant”), pleaded guilty to three of the six counts alleged in the Indictment filed on September 19, 2017. (ECF Nos. 1, 36, 39.) Specifically, Defendant pled guilty to Attempted Production of Child Pornography (Count 1), in violation of 18 U.S.C. § 2251(a), Production of Child Pornography (Count 3), in violation of 18 U.S.C. § 2251(a), and Distribution of Child Pornography (Count 5), in violation of 18 U.S.C. § 2252A(a)(2)(A). The Court accepted Defendant’s guilty plea, withheld acceptance of the Rule 11 nature of the Plea Agreement pending review of the Presentence Investigation Report (“PSR”), and, after several continuances, set the matter for sentencing on July 18, 2019, in Richland, Washington.

### **II. Facts**

The facts are set forth in the *Factual Basis and Statement of Facts* section of the plea agreement (ECF No. 39, ¶ 5) and the *Offense Conduct* section of the PSR. (ECF No. 66, ¶¶ 8-43.) The United States has no objections to the PSR. Defendant’s conduct consisted of ongoing and egregious sexual abuse of minors in 2016 and 2017: he solicited explicit images from minors; he sent explicit images of himself to minors; he drugged minors; he engaged in sex with at least one minor and communicated about sex with many others in graphic detail; he used images of one minor to entice a different minor to send him illicit images; he threatened and tried to extort a minor when the

1 minor's mother confiscated marijuana that Defendant had given the minor; and he  
2 trafficked in and collected child pornography, including sexual images depicting  
3 violence, sadomasochism, toddlers, and infants. Troublingly, Defendant engaged in all  
4 of this conduct in the Tri-Cities *after* fleeing from Oregon in 2016 following the  
5 discovery of hundreds of images of child pornography on devices Defendant owned and  
6 used in Oregon. (ECF No. 66, ¶¶ 96-100.) After Defendant's arrest in this case, officers  
7 recovered a variety of illegal drugs and more than 250 still images and videos of child  
8 abuse, many of which appeared to have been created or solicited by Defendant. Some of  
9 Defendant's victims have submitted victim impact statements that are attached to the  
10 PSR. Defendant was charged with encouraging child sexual abuse in Oregon; the global  
11 Plea Agreement resolves all of Defendant's criminal liability for his sexual misconduct.  
12

### 13 **III. Analysis of the Plea Agreement and Presentence Report**

14 The federal and state prosecutors in Defendant's cases have consulted with  
15 Defendant's victims and recognize the equities, including striking a balance between  
16 obviating the need for cross-examination of minor victims with the possibility of a  
17 longer sentence upon conviction at trial. The United States has come to an agreement  
18 with Defendant's federal and state defense counsel and Defendant that the following  
19 sentence is appropriate, pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C):  
20 twenty to twenty-five years in custody on the federal charges to which he is pleading  
21 guilty, and 45 months on the Oregon charges, all to be served concurrently, followed by  
22 a lifetime of supervised release. (ECF No. 39, ¶¶ 1, 2, 3, 8).  
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1 For purposes of calculating the appropriate range under the United States  
2 Sentencing Guidelines (the “Guidelines”), the United States concurs with the United  
3 States Probation Officer that Defendant’s final adjusted offense level is Level 43. (ECF  
4 No. 66, ¶¶ 44-79.) Prior to the offense level cap imposed by the Guidelines, Defendant’s  
5 offense level is 46; his misconduct is literally off the charts. (*Id.*) The Probation Officer  
6 concluded that Defendant has one criminal history point, placing him in Criminal  
7 History Category I. (ECF No. 66, ¶ 87.) Defendant’s applicable Guidelines range is life  
8 imprisonment. (ECF No. 66, ¶ 146.)

#### 9 **IV. The United States’ Sentencing Recommendation**

10 In light of the Plea Agreement, Federal Rule of Criminal Procedure 11, the United  
11 States Sentencing Guidelines, and the factors set forth at 18 U.S.C. § 3553, the United  
12 States respectfully recommends a twenty-five year term of imprisonment on Counts 1  
13 and 3, and a twenty year term of imprisonment on Count 5, to be served concurrently,  
14 and to be followed by a lifetime term of supervised release. The United States  
15 recommends no fine, restitution, and special assessments of \$300 (mandatory) and  
16 \$5,000 (absent a finding of indigence by the Court).

17 The United States respectfully submits that such a sentence is appropriate in light  
18 of the factors set forth at 18 U.S.C. § 3553. A twenty-five year sentence is necessary  
19 given the severity of Defendant’s conduct, but is no longer than necessary to achieve the  
20 statutory goals of sentencing, including just punishment, deterrence, and the protection  
21 of the community—particularly the young men and boys of Eastern Washington.

1           **A.     The Nature and Seriousness of the Offense**

2           It is difficult to comprehend – or overstate – the manipulative egregiousness of  
3 Defendant’s conduct. Defendant is a predator. Not only did he engage in illicit sexual  
4 conduct with minors and drug them, he memorialized for posterity images of child abuse  
5 that he took, solicited, received, and possessed. Defendant’s conduct demands twenty-  
6 five years of incarceration followed by a lifetime of supervised release; his sexual  
7 interest in minor boys is insatiable and longstanding. The sordid facts demonstrate that  
8 he would stop at nothing to satisfy his own sexual desires, regardless of the physical,  
9 psychological, and emotional consequences to his victims.  
10

11           The investigation into Defendant began when the mother of Minor Victim 1  
12 reported to local law enforcement that her son was receiving threatening text messages  
13 from Defendant. The threats related to a quantity of marijuana that Defendant, then a  
14 32-year old man, had provided to Minor Victim 1, a 14-year-old boy, to sell.  
15 Defendant’s threats, as reported by Minor Victim 1 and his mother, were disturbing, and  
16 were later corroborated by text messages that law enforcement officers located on Minor  
17 Victim 1’s cellular telephone.  
18

19           Officers would come to learn that Defendant’s threats to Minor Victim 1 were  
20 consistent with the manipulative and coercive manner in which Defendant met and  
21 subsequently used minor boys to satisfy his sexual proclivities. Defendant met both  
22 Minor Victim 1 and Minor Victim 2 on a website used by males seeking other males for  
23 sex. In both instances, Defendant knew that the boys were younger than 18, but that did  
24

1 not dissuade Defendant in the least; to the contrary, seeking out minor boys for illicit  
2 sexual activity was Defendant's goal. Chillingly, Defendant told Minor Victim 1 that  
3 the victim's true age "need[ed] to stay between [them]" and specifically instructed  
4 Minor Victim 1 to represent that he was 18 years old if anyone asked. (ECF 39 at p. 10.)

5  
6 Defendant continued to communicate with Minor Victims 1 and 2 in graphic  
7 sexual terms, and ultimately requested and received child pornography depicting both  
8 boys. Minor Victim 1 told Defendant that he was a minor in only the *fourth* text  
9 message Minor Victim 1 sent Defendant. Upon learning that this boy was a minor,  
10 Defendant did not terminate contact with Minor Victim 1; instead, he invited Minor  
11 Victim 1 to his residence. It is clear from the text message communications between  
12 Minor Victim 1 and Defendant that Defendant used marijuana and partying as methods  
13 to draw Minor Victim 1 into an ersatz relationship, exploiting Minor Victim 1's age and  
14 maturity level. Defendant then sought sexual contact with Minor Victim 1, as well as  
15 child pornography images depicting Minor Victim 1's genitalia. In the thousands of text  
16 messages between Defendant and Minor Victim 1, Defendant's intentions are clear and  
17 unmistakable - he wanted to engage in sexual intercourse with Minor Victim 1 and  
18 obtain child pornography images of Minor Victim 1.  
19

20  
21 When he was apprehended by law enforcement and confronted with the content of  
22 the text messages between himself and Minor Victim 1, Defendant claimed he was  
23 trying to demonstrate the dangers of meeting older men online. This was an outrageous  
24 and bald-faced lie. As the record demonstrates, Defendant *himself* was the older,  
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1 dangerous man from whom Minor Victim 1 needed – and still needs – genuine  
2 protection. Defendant’s actions were utterly devoid of any attempt to “save” Minor  
3 Victim 1 from the ills of predatory adult men. To the contrary, Defendant *was* the  
4 predatory adult man who sought out Minor Victim 1 to manipulate and use for his own  
5 sexual gratification, giving Minor Victim 1 drugs and convincing him to provide  
6 Defendant with images of child pornography.  
7

8  
9 Defendant’s appetite for minor boys was as relentless as it was voracious, and his  
10 manipulations are amply demonstrated by the manner in which he pursued Minor Victim  
11 2. Defendant met Minor Victim 2 on the same social media platform he had  
12 successfully used to seduce Minor Victim 1. Defendant attempted to use the same type  
13 of enticement with Minor Victim 2 that he used with Minor Victim 1, despite being  
14 aware that Minor Victim 2 was also a minor. When Minor Victim 2 became  
15 uncomfortable with Defendant’s communications and blocked him on social media  
16 applications, Defendant devised another scheme to obtain child pornography images  
17 from the minor boy. *Defendant held himself out to be Minor Victim 1*, a male similar in  
18 age to Minor Victim 2, sending photos of Minor Victim 1 to Minor Victim 2, to confirm  
19 Defendant’s fraudulent identity. Posing as Minor Victim 1, Defendant then sought and  
20 successfully obtained child pornography images from Minor Victim 2.  
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25 This grooming conduct is deceitful and abhorrent, and speaks to Defendant’s  
26 cunning and predatory skill with minor boys. Defendant’s continued representations to  
27 law enforcement that his conduct can be explained by an earnest desire to help minor  
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1 boys in the Tri-Cities area stands in stark contrast to the evidence amassed by  
2 investigators in this case, and Defendant's own statements. During his interview with  
3 investigators on March 3, 2017, Defendant admitted to his communications with, and  
4 nude photographs of, a least three minors, including Minor Victims 1 and 2.

6 Ever the manipulator, Defendant attempted to explain away his possession and  
7 subsequent receipt and distribution of child pornography images in an interview with  
8 law enforcement officials. Defendant claimed he had "inadvertently" downloaded child  
9 pornography, was "grossed" out by it, and only saved such images to provide to law  
10 enforcement. There is, of course, absolutely no evidence *anywhere* – not in any text  
11 message, chat, or email – that Defendant was in fact some kind of one-man-Non-  
12 Governmental-Organization. His claim that he saved child pornography to give it to the  
13 police was exactly as true as his claim that he sought out minor boys to protect them  
14 from predatory adults: that is, it was a lie.

18 Defendant's prior conduct in Oregon, his conduct once he moved back to  
19 Washington, and the forensic evidence completely belie these falsehoods. The forensic  
20 review of Defendant's devices and examination of his Dropbox account show that he  
21 possessed hundreds of images and videos of child pornography, including images of  
22 Minor Victims 1 and 2. The account information associated with Defendant's Dropbox  
23 account showed that he *continued* to add and remove child pornography videos and  
24 images to the account *after the first search warrant was executed at his residence*. It is  
25 truly astonishing – and speaks volumes about Defendant's ravenous sexual interest in  
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1 minor boys – that even after being contacted by law enforcement about his illicit  
2 relationship with Minor Victim 1, Defendant *continued* to seek out child pornography.

3  
4 Defendant's personal history further corroborates his interest in child pornography  
5 and minor boys. As set forth in the Plea Agreement and the PSR, Defendant faces child  
6 pornography charges in Oregon from 2016. In that case, Defendant's roommates  
7 discovered child pornography on his computer. Defendant subsequently fled the area to  
8 return to the Eastern District of Washington, where he continued to engage in criminal  
9 conduct relating to the sexual exploitation of children.  
10

11  
12 Defendant's conduct warrants a lengthy term of incarceration commensurate with  
13 the seriousness of his crimes, including a twenty-five year term of imprisonment on  
14 Counts 1 and 3, and a twenty-year term of imprisonment on Count 5, to be served  
15 concurrently and followed by a lifetime of supervised release.  
16

#### 17 **B. Defendant's Personal History and Characteristics**

18 Defendant's personal history and characteristics do not absolve him of  
19 responsibility for his actions; the difficulties of his upbringing and his own sexual abuse  
20 do not erase or balance out *his* sexual interest in minors. The United States has  
21 compassion for all victims of child sexual abuse, including Defendant, but to the extent  
22 that Defendant's conduct in this case is in any way rooted in his own sexual  
23 victimization, it is difficult not to conclude that Defendant was in a perfect position to  
24 know how destructive it is to a person's physical, psychological, and emotional  
25 landscape to be sexually traumatized as a child.  
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1 Likewise, having minimal countable adult criminal history erases neither  
2 Defendant's sexual interest in minors, nor the hideousness of his actions. To the  
3 contrary, unlike many Defendants before this Court, Defendant was educated and  
4 employable. He had opportunities to make better decisions, but he squandered them  
5 because of his relentless sexual interest in minors. The United States sees no significant  
6 mitigating factors, and submits that twenty-five years in custody is appropriate.  
7

### 8 **C. Just Punishment and Respect for the Law**

9 Defendant's repeated, egregious exploitation of minors conduct speaks for itself,  
10 and demands serious punishment. The only mechanism for creating accountability in  
11 this process is the sentence imposed by this Court. As the victim impact statements from  
12 the child pornography series victims and the obvious trauma to Minor Victims 1 and 2  
13 demonstrate, Defendant's victims cry out for justice from this Court.  
14

15 In considering what constitutes just punishment, the United States submits that it  
16 is appropriate for this Court to consider the breadth and scope of Defendant's conduct.  
17 Defendant engaged in ongoing child pornography offenses for *years* and solicited child  
18 pornography from multiple minor boys in the Eastern District of Washington, after  
19 doing the same thing in Oregon. Defendant used marijuana and manipulation to gain  
20 access and trust, all in hopes of violating Minor Victims 1 and 2.  
21

22 A twenty-five year term of imprisonment and lifetime of supervised release  
23 appropriately reflect the serious nature of the offenses committed by Defendant, will  
24 provide just punishment, and will promote respect for the law.  
25

1       **D.     Deterrence**

2       Defendant's pervasive pattern of exploitative conduct against minor boys is  
3  
4     significant. There is nothing more clear in this case than the fact that Defendant is not  
5     specifically deterrable: on multiple occasions, after law enforcement put him on notice  
6     that he had been caught engaging in child exploitation conduct (by executing search  
7     warrants at *different* residences in Oregon and Washington for child pornography),  
8  
9     Defendant continued to engage in the same conduct unabated and undeterred.

10       In 2016, Defendant got caught with a significant amount of child exploitation  
11     material in Oregon and fled the jurisdiction after his home was searched and his digital  
12     devices were seized. He then returned to Washington, where he was initially  
13     investigated and contacted by law enforcement on February 10, 2017, in connection with  
14     his illicit conduct with Minor Victim 1. Defendant was booked into jail on a state  
15     controlled substances offense, but was released thereafter. On March 3, 2017, law  
16     enforcement executed a second search warrant at Defendant's residence and arrested  
17     Defendant on state charges relating to child pornography. Officers would later discover  
18     in Defendant's Dropbox account activity that Defendant continued to access the account  
19     after his initial arrest on February 10, 2017, deleting and adding child pornography files  
20     on February 17, 2017, and March 3, 2017. This continued and repetitive pattern of  
21     behavior – continuing to engage in child sexual exploitation conduct despite having been  
22     caught doing so – demonstrates the need for a lengthy sentence to accomplish adequate  
23     deterrence.  
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1       The United States submits that a twenty-five year term of imprisonment followed  
2 by a lifetime term of supervised release is necessary to afford specific deterrence to  
3 Defendant and general deterrence to others in the community who would perpetrate such  
4 crimes; they will learn from this Court's sentence what the consequences of that conduct  
5 should be. Only if people with active sexual interests in minors know that they may go  
6 to federal prison for a long time will they be disincentivized from acting on their worst  
7 impulses. Twenty-five years is necessary in this case to create a true deterrent effect.  
8  
9

10       **E.     Protection of the Public**

11       Defendant unquestionably presents a danger to the community, and will for a long  
12 time. A sentence of twenty-five years is necessary because it will protect the minors in  
13 Eastern Washington for a significant period, and a lifetime of supervised release is  
14 appropriate here, given the need for ongoing monitoring of Defendant's conduct.  
15  
16

17       During the course of multiple interviews with law enforcement, Defendant  
18 claimed that he contacted minor boys in an effort to help them and protect them from  
19 those in the community that would do them harm. But Defendant's own actions prove  
20 what a lie that was. Defendant sought out minor boys time and time again, requesting  
21 pornographic images of them. Defendant went to great lengths to obtain his child  
22 pornography images, even disguising his own identity by pretending to be Minor Victim  
23 1 for the sole purpose of convincing Minor Victim 2 to send him the pornographic  
24 images of Minor Victim 2 that Defendant craved.  
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1 Defendant also went to great lengths to *continue* to procure and distribute child  
2 pornography after being contacted by law enforcement. As set forth above, Defendant  
3 came to the Eastern District while he was being investigated for child pornography  
4 crimes in Oregon. During the initial search warrant at his residence in February of 2017,  
5 the cell phone Defendant had used to contact Minor Victim 1 and download child  
6 pornography was located under a door adjacent to Defendant's bedroom. After  
7 Defendant's release from jail in February of 2017, he continued to access his Dropbox  
8 account that was determined to be comprised almost entirely of child pornography. Due  
9 to Defendant's continued criminal activity, a twenty-five year term of imprisonment (as  
10 to Counts 1 and 3) is imperative to protect the community from Defendant.

14 For the same reason, the United States also recommends a lifetime term of  
15 supervised release as agreed to by the parties in the Plea Agreement. (ECF No. 39, ¶  
16 10.) The United States is concerned by the recidivism rate for sex offenders generally.  
17 *See* Dept. of Justice, *Bureau of Justice Statistics*, P. Langan, E. Schmitt, & M. Durose,  
18 *Recidivism of Sex Offenders Released in 1994*, p. 1 (Nov. 2003) (reporting that  
19 compared to non-sex offenders, released sex offenders were four times more likely to be  
20 rearrested for a sex crime, and that within the first three years following release 5.3% of  
21 released sex offenders were rearrested for a sex crime); *Smith v. Doe*, 538 U.S. 84, 104  
22 (2003) ("The risk of recidivism posed by sex offenders is 'frightening and high.'")  
23 (quoting *McKune v. Lile*, 536 U.S. 24, 34 (2002)).  
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1 The United States Sentencing Guidelines also support a life term of supervised  
2 release. Under U.S.S.G. § 5D1.2(b), “[i]f the instant offense of conviction is a sex  
3 offense . . . the statutory maximum term of supervised release is recommended.” The  
4 statutory maximum term of supervised release is life. (ECF No. 66, ¶¶ 148, 150.)

6 **F. Avoidance of Unwarranted Sentencing Disparities**

7  
8 Mindful that the Guidelines must be “the starting point and the initial benchmark,”  
9 *United States v. Carty*, 520 F.3d 984, 991–92 (9th Cir. 2008), the United States submits  
10 that a sentence of twenty-five years is appropriate in this case. It is significantly beneath  
11 the life sentence recommended by the Guidelines, and is the result of a complicated  
12 global plea agreement with state authorities that prevents Defendant’s victims from  
13 having to face cross-examination before a roomful of strangers about the horrendous  
14 sexual trauma that Defendant visited upon them.

17 Twenty-five years for Defendant’s sexual abuse of minors is consistent with the  
18 sentences imposed on similarly-situated Defendants in this District, including Zayne  
19 Barbre, whom this Court recently sentenced to twenty-eight years in light of his repeated  
20 hands-on conduct and production of child pornography. *See* ECF No. 55, Judgment and  
21 Commitment Order, *United States v. Barbre*, Criminal Case No. 4:17-CR-6040-SMJ-1.

24 Twenty-five years – but no less – is necessary and fair in light of all of the  
25 circumstances. The United States urges the Court to accept the Rule 11(c)(1)(C) Plea  
26 Agreement and impose a sentence consistent with it.  
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**G. Fine, Special Penalty Assessment, Restitution, and Forfeiture**

The United States and Defendant are free to make whatever recommendation concerning the imposition of a criminal fine that they believe is appropriate. (ECF No. 39, ¶ 9). The Probation Officer has analyzed Defendant's financial condition and has concluded that he does not have the financial means, assets, and/or resources available to reasonably make payment on a fine. (ECF No. 66, ¶¶ 140-44). Accordingly, the United States does not seek a fine.

A \$300 special assessment is mandatory.

The United States defers to the Court regarding Defendant's indigence and the applicability of the \$5,000 Special Assessment pursuant to the Justice for Victims of Trafficking Act of 2015.

A preliminary order of forfeiture has been submitted to the Court. (ECF No. 38.)

The United States recommends restitution consistent with the PSR and restitution requests, up to \$75,000. (ECF No. 66, ¶ 187.) Restitution requests and victim impact statements have been submitted to the United States Probation Office for inclusion with the PSR. If the United States receives additional restitution requests or victim impact statements before sentencing, the United States will submit them to the Court and counsel.



1 **V. Conclusion**

2 The United States recommends that the Court accept the Rule 11(c)(1)(C) Plea  
3  
4 Agreement, apply a total offense level of 43, and conclude that Defendant is in Criminal  
5 History Category I, yielding a Guidelines range of life in prison. Pursuant to the Plea  
6 Agreement, the United States recommends a sentence of twenty-five years of  
7  
8 imprisonment for Attempted Production and Production of Child Pornography (Counts 1  
9 and 3), and a twenty-year term of imprisonment for Distribution of Child Pornography  
10 (Count 5), to run concurrently, followed by a lifetime term of supervised release.  
11  
12

13 Dated: June 27, 2019

Joseph H. Harrington  
United States Attorney

15 s/ David M. Herzog  
16 David M. Herzog  
17 Assistant United States Attorney  
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**CERTIFICATE OF SERVICE**

I hereby certify that on June 27, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to Defendant's counsel of record using the CM/ECF system.

s/ David M. Herzog  
David M. Herzog  
Assistant United States Attorney